

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

BERNANDO O. DAVIS,	:	MOTION TO VACATE
Movant,	:	28 U.S.C. § 2255
	:	
v.	:	CRIMINAL INDICTMENT NO.
	:	1:13-CR-0058-CAP-JFK-2
UNITED STATES OF AMERICA,	:	
Respondent.	:	CIVIL FILE NO.
	:	1:15-CV-2660-CAP-JFK

**UNITED STATES MAGISTRATE JUDGE’S  
FINAL REPORT AND RECOMMENDATION**

Movant, Bernardo O. Davis, has filed a 28 U.S.C. § 2255 motion [191] that challenges his convictions and sentences entered in this District under the above criminal docket number. The matter is before the Court for preliminary review under Rule 4(b), which requires the Court to order summary dismissal of a § 2255 motion “[i]f it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief in the district court[.]” Rules Governing Section 2255 Proceedings, Rule 4(b).

In May 2015, the Court denied Movant’s original § 2255 motion. (Order, May 20, 2015, ECF No. 186). Accordingly, this is a successive § 2255 motion which must be dismissed because the Court has no authority to consider it. Movant first must get permission from the Eleventh Circuit Court of Appeals before a successive § 2255


motion can be filed in the district court. See 28 U.S.C. § 2255(h); Farris v. United States, 333 F.3d 1211, 1216 (11th Cir. 2003). A certificate of appealability is not warranted because it is not debatable that Movant must obtain permission from the Eleventh Circuit Court of Appeals before filing another § 2255 motion in this Court. See Rules Governing Section 2255 Proceedings for the United States District Courts, Rule 11.

Accordingly,

**IT IS RECOMMENDED** that this § 2255 motion [191] be **DISMISSED** and that a certificate of appealability be **DENIED**.

The Clerk of Court is **DIRECTED** to withdraw the referral of this § 2255 motion to the undersigned Magistrate Judge.

**IT IS SO RECOMMENDED and DIRECTED** this 10<sup>th</sup> day of August, 2015.

  
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JANET F. KING  
UNITED STATES MAGISTRATE JUDGE